IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 922 OF 2005

IN

SUMMONS FOR JUDGMENT NO. 717 OF 1999

IN

SUMMAY SUIT NO. 475 OF 1999

R. Saraana Prabhu and Anr. ... Appellants

Versus

M/s. Videocon Leasing & Industrial Finance Ltd. and Ors. ... Respondents.

Mr. M.S. Bhandari, instructed by M/s. Bangla Dandekar & Co. , for the appellants.

Mr. R.D. Soni with Mr. M.A. Saiyed, instructed by M/s. Ram & Co.,for the respondents.

CORAM: **KSHITIJ R. VYAS, C.J.** &
ABHAY S. OKA, J.

DATE: JUNE 12, **2006**.

P.C.

This appeal is directed against the order dated 14th March, 2005 passed by the learned single Judge in Summons for Judgment No. 717 of 1999 in Summary Suit No. 475 of 1999.

2. As can be seen from the said order, the learned single Judge granted conditional leave to defend the suit to the extent of Rs. 3,10,00,000/- subject to the defendants depositing in Court the said amount within a period of four weeks. As regards the balance claim of the principal sum of Rs. 45 lakhs, the defendants were granted unconditional leave to defend the suit. The defendants were also further granted unconditional leave to defend the claim for interest.

3. The appellants raised mainly three contentions before the learned single Judge viz. the suit is barred by limitation as the money was advanced in pursuance of the Memorandum of Understanding dated 22nd November, 1994 and the suit has been filed on 11th January, 1999, that the Court has no jurisdiction to try and entertain the suit as the Company as its registered office at Coimbatore and finally denial of any amount having been received by the appellants.

4. The learned counsel appearing for the appellants has adopted the said arguments advanced before the learned single Judge. Having gone through the reasoning of the learned trial Judge, we hardly see any substance in the arguments advanced by the learned counsel. In our opinion, the learned single Judge, after

considering the pleadings and the documents, rightly negatived the contentions raised by the learned counsel appearing on behalf of the appellants. In view of the fact that the appellants admitted the receipt of a sum of Rs. 3.10 crores till 23rd December, 1994, and further proof regarding the payment of a further sum of rs. 45,00,000/-, we see no substance in the submission of the learned counsel. Since we are in agreement with the reasoning adopted by the learned single Judge, it will not be necessary for us to give the same reasons all over again. There being no substance in the appeal, the Appeal is dismissed. However, time to deposit Rs. 3.1 crores is extended for a further period of eight weeks from today.

CHIEF JUSTICE

ABHAY S. OKA, J.